

REMARKS

The Office Action mailed March 22, 2010 (hereinafter, "Office Action") has been reviewed and the Examiner's comments considered. Claims 1-43 are pending in this application. Claims 27-43 are withdrawn from further consideration as being drawn to a non-elected species. Claims 1-43 are amended herein at least to conform claim preambles. The specification is amended herein to add priority information. Applicants submit that no new subject matter has been introduced.

Information Disclosure Statement

Applicants submitted an Information Disclosure Statement pursuant to 37 CFR 1.97 and in compliance with 37 CFR 1.98 on January 27, 2010. Attached to the Office Action, was the submitted IDS indicating which references were considered. Reference DE19936059 was lined through as not considered, but no statement was provided in the Office Action. A proper publication was submitted of this reference. Thus, Applicants respectfully request the reference be considered. If the reference is not considered, Applicants respectfully request a statement why the reference is not being considered.

Claim Rejections – 35 U.S.C. § 103

Claims 1-9, 11, 12, and 15-26 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over US 2003/0109886 to Keegan et al. ("Keegan") in view of USPN 6,663,614 to Carter ("Carter"). Claim 10 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Keegan and Carter in view of USPN 6,945,989 to Betelia et al. ("Betelia"). Claims 13-14 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Keegan and Cater in view of USPN 5,603,698 to Roberts et al. ("Roberts"). Applicant respectfully traverses these rejections.

Independent claim 1 recites, *inter alia*, "the sleeve-shaped means having a proximal end which is form-fitted over the primary shaft, and having a radially inwardly tapering portion proximal of the proximal end of the tubular means, said inwardly tapering portion defining a proximal guidewire lumen exit port."

The Keegan catheter configuration is distinct from the claimed invention at least because it does not include any of: 1) a sleeve-shaped means having a proximal end form-fitted over the primary shaft, 2) a sleeve-shaped means having a radially inwardly tapering portion proximal of the proximal end of the tubular means, and 3) an inwardly tapering portion defining a proximal guidewire lumen exit port. Even assuming *arguendo* that the junction piece 9 includes features similar to those of the claimed sleeve-shaped means, the junction piece 9 cannot properly be considered a substitute because Keegan describes the junction piece 9 as being formed from a distinct material in order to achieve certain advantages. Carter does not show or describe the claimed features missing from Keegan. Therefore, Applicants submit that a *prima facie* case of obviousness is not established by the asserted combination of Keegan/Carter.

Accordingly, Applicants respectfully submit that independent claim 1, and claims 2-9, 11, 12, and 15-26 depending therefrom, are patentable over the asserted combination, and request favorable reconsideration and withdrawal of the rejection under 35 U.S.C. § 103.

Regarding dependent claims 10 and 13-14, without conceding the propriety of the asserted combinations, or the allegations in the Office Action, Applicants submit that each is patentable at least because it depends from patentable independent claim 1, in view of the above. Accordingly, Applicants respectfully request favorable reconsideration and withdrawal of the rejections under 35 U.S.C. § 103.

Conclusion

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejections of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

It is noted that the remarks herein do not constitute, nor are they intended to be, an exhaustive enumeration of the distinctions between the cited references and the claimed invention. Rather, the distinctions identified and discussed herein are presented solely by way of example. Consistent with the foregoing, the discussion herein should not be construed to prejudice or foreclose future consideration by Applicant of additional or alternative distinctions between the claims of the present application and the references cited by the Examiner and/or the merits of additional or alternative arguments.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 50-2191, under Order No. 101671.0057P from which the undersigned is authorized to draw.

Dated: June 18, 2010

Respectfully submitted,

Electronic signature: /Todd W. Wight/
Todd W. Wight

Registration No.: 45,218
RUTAN & TUCKER LLP
611 Anton Boulevard, Suite 1400
Costa Mesa, California 92626
(714) 641-5100
Patents@Rutan.com